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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,711	10/14/2005	Marco Cantu'	07040.02.20.00000	8741
22852 7590 06/23/2009 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER KNABLE, GEOFFREY L.				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
06/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,711

Applicant(s)

CANTU' ET AL.

Examiner

Geoffrey L. Knable

Art Unit

1791

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-29 and 31-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-29 and 31-39 is/are allowed.
- 6) ☒ Claim(s) 40-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/4/2009 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 40-50 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al. (US 1,394,928) taken in view of Caretta et al. (US 6,409,959) and Clinefelter et al. (US 1,407,839), and optionally further in view of Caretta (US 6,332,999 - newly cited).

Midgley et al, Caretta et al. '959 and Clinefelter et al. are applied for substantially the same reasons as set forth in the last office action. The added material to *apparatus* claims 40 and 45 principally represents the intended manner of operation of the device (i.e. desired pressures) rather than requiring any specific structural limitation that would distinguish the applied prior art (e.g. see MPEP 2114). In particular, it is submitted that the ordinary artisan would have understood that the applied pressures in Midgley et al., as well as Caretta et al. '959 and Clinefelter et al., would or certainly should be controllable, the apparatus claims simply requiring a capability for the secondary fluid pressure to be greater than at least some primary fluid pressure, not actual operation of the apparatus in this manner. Caretta '999 has been optionally further cited as

additional evidence that the ordinary artisan would have understood that the applied pressure in a very similar tire vulcanization process (this reference being equivalent to the referenced EP application in the discussion at col. 2 of Caretta et al. '959) would or should be controllable (e.g. note reference to "gradually increasing pressure" at col. 7, lines 35-43). Note also that Midgley suggests use of valves "43" to control the steam.

4. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al. (US 1,394,928) taken in view of Caretta et al. (US 6,409,959) and Clinefelter et al. (US 1,407,839) as applied above, and further in view of Kobayashi (US 6,350,402) as applied in the last office action.

5. Claims 27-29 and 31-39 are allowed in view of the amendments to the claims and applicant's comments, as well as the examiners comments from the last office action (with respect to previous claims 30-32 that are now part of claim 27).

6. Applicant's arguments filed 5/4/2009 have been fully considered but they are not persuasive as regards the remaining rejections. The previous 35 USC 112 and prior art rejections of claims 27-29 and 31-39 have however been withdrawn in view of applicant's response.

With respect to the remaining rejections of the apparatus claims, applicant argues essentially that the method features of the apparatus should render these claims patentable as well. As noted in the statement of rejection, however, the further features in the apparatus claims do not *structurally distinguish* the claimed apparatus from the prior art. The added features relate principally to the intended manner of operating the claimed apparatus rather than structurally defining the apparatus in a manner that would

distinguish the claimed invention (note also MPEP 2114). Providing controllable pressures would have been implicit or certainly obvious to the ordinary artisan as set forth in the statement of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Geoffrey L. Knable/
Primary Examiner, Art Unit 1791

G. Knable
June 20, 2009